THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.17509 OF 1995

DATED: 24-10-2006

BETWEEN

G.G.Sudarshanam,
S/o.G.P.David, aged 42 years,
Asst.LIC of India Branch Office,
Cuddapah District and others.

...PETITIONERS

AND

Senior Divisional Manager,
L.I.C. of India, Divisional Office,
Station road,
Cuddapah and another.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus against the respondents to treat the his case as falling under clause (a) of Life Insurance Corporation (LIC) of India (Staff) Regulations 38 and further direct the respondents to treat the period of his suspension from 11.09.1992 to 19.06.1994 as on duty and grant his full pay and allowances which he would have been entitled to if he had not been suspended and all other consequential benefits.

Learned counsel for the petitioner submits that the petitioner was appointed as an Assistant in LIC of India under the quota reserved for Ex-Serviceman on 30.12.1991 and thereafter a case in Cr.No.150 of 1992 has been registered against him by I Town Police Station, Cuddapah under Section 306 of the Indian Penal Code, 1860 on the allegation that he abetted one deceased Haseena Bee to commit suicide. Pursuant to the registration

of the crime he was suspended from service on 11.09.1992 under Regulation 36(1)(b) and 36(2) of LIC of India (Staff) Regulations 1960 but the said case ended in acquittal of the petitioner in S.C.No.320 of 1992 by judgment dated 10.06.1994 passed by the Sessions Judge, Cuddapah. Thereafter, the suspension of the petitioner was revoked and he was taken on duty on 30.06.1994.

He further submits that whenever an employee of LIC of India is suspended on certain allegations and if the said suspension is found illegal and if he is acquitted, the period of suspension should be treated as on duty. He further submits that when a suspended employee is reinstated after completion of the disciplinary proceedings and if he is acquitted honourably, he is entitled to full allowances for the period under suspension. According to the petitioner as he was acquitted honourably his case falls under Regulation 38(a) as such he is entitled to full pay and allowances for his absence from duty for the period from 11.09.1992 and 29.06.1994. It is stated that the respondents have erroneously considered his suspension under Regulation 38(b) and denied the payment of pay and allowances for the aforesaid period of suspension.

The only question that arises for consideration is as to whether the suspension period falls under Regulation 38(a) or 38(b). It is not in dispute that if an employee is suspended under Regulation 38(a) and if such suspension was finally found to be erroneous by the Corporation itself, the employee is entitled for full pay and allowance.

On the other hand, it is the case of the respondents that the Corporation has nothing to do with the petitioner's involvement in the criminal case. However, the corporation did not suspend the petitioner for any fault committed in respect of his services in the Corporation but only due to his involvement in the criminal case, he was suspended under Regulation 36(1)(b) and 36(2) and the revocation of suspension in the instant case falls under

Regulation 38(b).

It is stated that there is distinction between Regulation 38(a) and 38(b); if the suspension is unjustifiable and if the employee under suspension is reinstated he is entitled to full pay and allowances under Regulation 38(a) but in the instant case the petitioner was suspended due to his involvement in a criminal case and therefore, as per Regulation 36(1)(b) and 36(2) the suspension became inevitable and therefore, his case falls under Regulation 38(b). It is further stated that for any suspension under Regulation 38(b) the employees are not entitled to full pay and allowances. The suspension period of the petitioner was 657 days i.e. from 11.09.1992 to 29.06.1994 and as per the other Regulation 65 the petitioner is not entitled to grant of extraordinary leave as it is not one of the exceptional cases to grant extraordinary leave and in fact, the Corporation has shown the maximum indulgence and latitude to the petitioner within the permissible limits of the Regulations. The said period of suspension was 657 days, which was treated by the Corporation as, 2 days privilege leave sanctioned, 363 days extraordinary leave and 292 days period as not spent on duty but not amounting to break in service, which is perfectly justified.

I am of the opinion that the petitioner was suspended not for any disciplinary proceedings contemplated by the Corporation but he was suspended for his involvement in a criminal case, which has nothing to do with the Corporation, as such his case falls under Regulation 38(b) and therefore, he is not entitled to full pay and allowances for the aforesaid period of suspension of 657 days.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

October 24, 2006
DSK